IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 550 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMILABEN CHANDUBHAI PATEL & OTHERS
Versus
SOKATKHAN HABIBKHAN & ANOTHER

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Appearance :
MS. ARCHANA AMIN FOR MR KG VAKHARIA for Appellants.
MR RAJNI H MEHTA for Respondents.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 30/07/2007

ORAL JUDGMENT

Ms. Archana Amin, learned counsel appears for the

appellants. Mr. Rajni H. Mehta, learned counsel appears and states that he will be appearing for both the respondents. Parties are heard.

The appellants-claimants, being aggrieved by the award dated 09.12.85 passed by Motor Accident Claims Tribunal, Sabarkantha at Himmatnagar in MACP No. 125 of 1983 are before this Court seeking enhancement of the amount of compensation.

As no cross-appeal or cross-objections have been filed by the respondents, it is not necessary for this Court to enter into the question of occurrence of the accident, rashness, negligence and liability of the respondents. The only question for consideration is: Whether the Tribunal was justified in assessing income of the deceased at Rs.1500/- per month and in adopting multiplier of 15?.

Ms. Archana Amin, learned counsel for the appellants, after taking me through the judgment, submitted that the Tribunal was unjustified in assessing the income at Rs.1500/- per month especially when the salary certificate which was on record reflected the income to be Rs.1948/- per month. She also submitted that the Tribunal has not taken into consideration future prospects of the deceased and also applied lower multiplier.

Shri R.H. Mehta, learned counsel for the respondents, relying upon a judgment of the Supreme Court submitted that in the absence of evidence to prove that the deceased had promotional avenues available to him,

the Tribunal would not be justified in holding that the deceased was likely to be promoted or to get better benefits. He also submitted in **NEW INDIA vs. KALPANA AND OTHERS, 2007 ACJ 825**, in case of death of a person of 33 years, the Apex Court found that adoption of multiplier of 13 would be reasonable, then in the present case, adoption of multiplier of 15 in case of the deceased aged 31 years cannot be said to be on the lower side.

In the matter of **BIJOY KUMAR DUGAR vs. BIDYADHAR DUTTA, AIR 2006 SC 1255,** the Apex Court has observed that in the absence of evidence relating to future prospects of income, a Court would not be justified in assessing higher income. In the present case, unfortunately, no evidence has been brought on record on the strength of which it can be held that the deceased had promotional avenues available to him and was to get something better in future.

So far as the question of application of multiplier is concerned, this Court, in view of the judgment in the matter of **NEW INDIA vs. KALPANA AND OTHERS, 2007 ACJ 825**, must hold that application of multiplier of 15 cannot be said to be on the lower side.

It was last contended that the Court below was unjustified in awarding only a sum of Rs.4000/- towards consortium; the Court should have awarded atleast a sum of Rs.10,000/- under this head. I find force in this submission, and hold that the Court below should have awarded a sum of Rs.6000/- in addition to what has been awarded under the head of consortium.

The appeal to the extent indicated above is allowed. In addition to what has already been awarded under the head of consortium, the claimant No.1, Ramilaben Chandubhai Patel, would be entitled to an amount of Rs.6,000/- with 6% interest from the date of the claim petition till realization.

The appeal to the extent indicated above is allowed. No costs.

[R.S.GARG, J.]

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